



(ii) alleged behaviour which is suitable for referral to disciplinary options.

1.2.2 If the alleged behaviour of the complainant is considered by the relevant staff member to be disciplinary in nature under clause 1.2.1 (e) (i) then the alleged behaviour of the complainant is to be classified as:

- (a) misconduct;
- (b) serious misconduct;
- (c) and which, in each case, will then be processed in accordance with these regulations;
- (d) For the purpose of classifying the alleged behaviour of the complainant, guidance by the University Proctor will be available.

### 1.3 Principles

1.3.1 Massey University aims to encourage integrity in the teaching and learning process; courtesy, safety and respect amongst students; and between students and the University. All students are supported to realise their potential through a partnership founded in trust and mutual benefit.

1.3.2 The aim of these student disciplinary regulations is to ensure that alleged breaches of the obligations of good conduct are dealt with fairly and promptly in the context of the educational environment. Therefore, any allegation of misconduct (academic or non-academic) or serious misconduct (academic or non-academic) will be processed by the relevant staff member on the campus attended by or responsible for the Respondent. Any action taken should be reasonable in the particular circumstances and restorative outcomes should be considered where appropriate.

1.3.3 Students are bound by the Te Taura Kirimanā Student Contract; they must adhere to the Kaupapa Here Aratohi Code of Student Conduct and not engage in activities or behaviour that constitute student misconduct or serious misconduct.

1.3.4 The University views all complaints received seriously and is mindful of the interests of both the Complainant and the Respondent. Accordingly, where a complaint is made, the relevant staff members should endeavor to assess the risk to and protect the interests of both the



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Integrity Policy and the Procedure for Managing Breaches of Academic Integrity, the Code of Responsible Research Conduct and all other relevant University policies, codes, regulations and procedures.

1.4.4 Except for the d te Taurira Kirirama Student Contract, in the event of any inconsistency arising between these regulations and any other University policy, code, regulation or procedure, these regulations will prevail.

1.4.5 These regulations do not apply to minor breaches.

## 2. DEFINITIONS

2.1 Appellant means a Respondent who has brought an appeal in accordance clause 10.

2.2 Clause means a clause provided in these regulations.

2.3 Code of Student Conduct / Kaupapa Here Aratohu means the Massey University Code of Student Conduct / Kaupapa Here Aratohu

2.4 Complainant means the person who has made a written complaint alleging misconduct or serious misconduct against a student and who has referred that complaint to the University.

2.5 Complaint means any written allegation of misconduct or serious misconduct made against a student at Massey University by former student of Massey University and which is referred to the University.

2.6 Minor Breach means conduct which does not reach the threshold of misconduct or serious misconduct under these regulations and will be dealt with as part of the normal teaching and learning environment and primarily treated in an educative manner and managed by the staff member responsible.

2.7 Misconduct means any conduct which:

- (a) is in breach of the Kaupapa Here Aratohu Code of Student Conduct and/or the Student Academic Integrity Policy; and/or the Code of Responsible Research



(a) is in breach of the

3. RECEIPT OF COMPLAINTS (see Appendix 1)

- 3.1 Every complaint alleging misconduct or serious misconduct of which the outcome may be the imposition of a penalty which takes into account the limits prescribed in these regulations shall be referred to the relevant staff member for classification. For the purpose of these regulations those persons are any of the following persons on the campus attended by or responsible for the Respondent
- (a) Directors of Teaching and Learning (or equivalent)
  - (b) staff designated to conduct an investigation under the Code of Responsible Research Conduct
  - (c) the nominee of the Executive Director Student Experience
  - (d) the Pro Vice-Chancellor of the relevant College (or their delegate) and
  - (e) the University Proctor
- 3.2 The abovementioned persons may consult with the University Proctor who may also receive complaints directly and refer those complaints to the relevant staff member
- 3.3 If the alleged behaviour of the complainant is not of a disciplinary nature, it should be referred to the appropriate alternative services (see Appendix 1).
- 3.4 If the alleged behaviour of the complainant is of a disciplinary nature, the relevant staff member or University Proctor will:
- (a) dismiss the complaint if it appears either trivial, vexatious or beyond the scope of these regulations; or
  - (b) seek to resolve the complaint via informal processes, in accordance with clause 6
  - (c) decide the complaint shall be processed as either alleged misconduct or alleged serious misconduct and in doing so shall have regard to the definitions of those terms in clause 2 and to the prospective penalties prescribed in these regulations (see Appendix 2)
- 3.5 When a complaint is received which alleges behaviour which may constitute serious misconduct, the Pro Vice-Chancellor of the relevant College (or their delegate) or the Executive Director Student Experience will, without delay, consider whether interim measures should be taken under clause 7 and, if any of those measures are considered appropriate, shall advise the Vice-Chancellor accordingly.





6. COMMON PROCEDURAL REQUIREMENTS

6.1 No complaint alleging misconduct or serious misconduct shall be upheld without the due process having been followed as provided for in these regulations.

6.2 A Respondent shall be presumed innocent unless responsibility for the alleged misconduct or serious misconduct is admitted by them or until they are duly found otherwise in accordance with these regulations.

6.3 A determination of misconduct or serious misconduct shall be made only if the decision maker is satisfied on the balance of probabilities that an allegation(s) made against the Respondent/s are substantiated.

6.4 All persons having responsibility under these regulations shall when carrying out their functions, take due care to ensure that they take into account the cultural beliefs and values of the parties involved

7. INTERIM/URGENT MEASURES

7.1 Pending the resolution of a complaint alleging behaviour which may constitute serious misconduct on the advice of the Pro Vice-Chancellor of the relevant College (or their delegate), or the Executive Director Student Experience, the Vice-Chancellor may (when and to the extent the Vice

7.3 In any case where suspension is implemented before the Respondent has had a reasonable opportunity to comment, that opportunity shall remain open to the Respondent throughout the duration of the suspension.

7.4 When considering whether to suspend the Respondent under clause 7.1, the Vice Chancellor must take into account the following (where relevant):

- (a) the health, safety and reputation of members of, and visitors to, the University;
- (b) the orderly conduct of teaching and research at the University;
- (c) the protection of property or resources of the University;
- (d) the potential effects of suspension on the Respondent's programme of study, and any other matters raised by the Respondent; or
- (e) any other matters considered appropriate in the circumstances.

## 8. PROCESS

8.1 Any complaint that is to be processed as alleged misconduct may be investigated by the relevant staff member under these regulations. For the avoidance of doubt, in cases of alleged misconduct the relevant staff member will be a staff member who is a Director of Teaching and Learning (or equivalent) or a staff member who is designated to conduct an investigation under the Code of Responsible Research Conduct; or the nominee of the Executive Director Student Experience, in consultation with the University Proctor if required. At the conclusion of the investigation the finding(s) of the relevant staff member will then be referred to the appropriate decision maker (see Appendix 1).

8.2 Any complaint that is to be processed as alleged serious misconduct must be investigated by

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- (i) the identity of the Complainant; and
- (ii) a statement of the alleged misconduct or serious misconduct including reasonable particulars of where, when, and in what circumstances the alleged misconduct or serious misconduct took place, and a reference to the particular provision(s) of the relevant University policy, code, regulation or procedure that has (have) allegedly been breached;
- (iii) the procedure to be followed in investigating the complaint and the possible penalties should the complaint be upheld (see Appendix 2); and
- (iv) the Respondent's right not to answer any questions at any point in the investigation; and
- (v) the Respondent's right to representation, including legal representation, and the existence of appropriate formal or informal support, such as the Student Advocacy Service,

- (ii) offer the Respondent an opportunity to submit any further responses before the complaint is resolved in accordance with clause 9.1.

## 9. RESOLUTION

9.1 The complaint may be resolved by:

- (a) referring the complaint to mediation.
- (b) If the complaint is not referred to mediation under clause 9.1(a) or if having been referred to mediation under clause 9.1(a) either the Complainant or the Respondent decline to mediate, or the mediation is unsuccessful, then the matter will be referred to the appropriate decision-maker for resolution, who after having offered the Respondent a further opportunity to make any further representations, may;
- (c) dismiss the complaint as not proved, trivial or vexatious; or
- (d) uphold the complaint, and either:
  - (i) impose no penalty; or
  - (ii) impose an appropriate penalty taking into account the limits prescribed in these regulations (see Appendix 2) or
- (e) resolve the complaint in some other manner agreed between the decisionmaker and the Respondent, which may involve referral to the appropriate alternative services.

9.2 If following consideration of any final representations made by the Respondent, a complaint of misconduct or serious misconduct is upheld, the decisionmaker must provide a decision in writing which:

- (a) summarises the reason or reasons why it was held that the complaint was upheld; and
- (b) if a penalty is imposed, gives a reason or reasons why that particular penalty is imposed; and
- (c) notifies the Respondent of their right to appeal and the grounds on which an appeal may be brought under these regulations

10. APPEAL

10.1 Right of Appeal

10.1.1 A Respondent against whom a complaint of alleged misconduct or serious misconduct is upheld may appeal against that decision in accordance with clause 10.

10.5.2 Outcomes which are agreed to at mediation or by other means of informal resolution, may not be appealed.

## 10.6 Nature of Appeal

10.6.1 On an appeal, the Respondent bringing the appeal becomes known as the "Appellant".

## 10.7 Appeal Process

10.7.1 Any appeal shall be referred to the relevant appeal person who must not have been involved in the original decision under appeal.

10.7.2 For complaints classified as misconduct, an appeal shall be referred:

- (a) to the Pro Vice-Chancellor of the relevant College (or their delegate) where the misconduct relates to course work, examinations or other academic matters (except doctoral research); or
- (b) to the Dean Research where the misconduct relates to doctoral research; or
- (c) to the Deputy Vice-Chancellor Students & Global Engagement in all other cases of misconduct;
- (d) who shall in each case consider the decision of the decision maker and any further submissions from the Appellant who must be given the opportunity to present their submissions in person.

10.7.3 For complaints classified as serious misconduct, an appeal shall be referred:

- (a) to the Provost where the serious misconduct relates to course work, examinations, research or other academic matters; or
- (b) to the Deputy Vice-Chancellor Students & Global Engagement in all other cases of serious misconduct;
- (c) who shall in each case consider the decision of the decision maker and any further submissions from the Appellant who must be given the opportunity to present their submissions in person.

## 10.8 Resolution of Appeals

10.8.1 The relevant appeal person may:

- (a) allow the appeal and set aside or rescind the decision; or
- (b) dismiss the appeal and uphold the decision;









Receipt of Complaint

Classification

Non-Disciplinary  
[Clause 3.3]

Disciplinary  
[Clause 3.4]

Misconduct

Serious Misconduct

\* A decision under Clause 3.4 (c) that the complaint be processed as alleged misconduct does not include a subsequent redetermination that it should be processed instead as alleged serious misconduct or referred to appropriate alternative services. [Clause 5.2]. A decision under Clause 3.4 (d) that the complaint be processed as alleged serious misconduct does not

## Schedule of Penalties

| CLASSIFICATION                                   | PENALTY  |
|--|--|
| Misconduct<br>[Academic or Non-Academic]         | <ul style="list-style-type: none"> <li>a. such academic penalty as is considered appropriate; and/or</li> <li>b. a financial penalty or order for restitution which shall not exceed \$500; and/or</li> <li>c. an order suspending the Respondent from attending the University for any period.</li> </ul>   |
| Serious Misconduct<br>[Academic or Non-Academic] | Penalties may include: <ul style="list-style-type: none"> <li>a. such academic penalty as is considered appropriate; and/or</li> <li>b. a financial penalty or order for restitution which shall not exceed \$5,000; and/or</li> <li>c. an order suspending the Respondent from attending the University for any period; and/or</li> <li>d. a permanent order excluding the Respondent from attending the University.</li> </ul> |